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I'm pleased to be here today to discuss guardianships for the elderly. As people age, some become incapable of caring for themselves. Although family members often can provide assistance, sometimes a state court will need to appoint a guardian to act on the incapacitated person's behalf. There have been instances, however, when some guardians have taken advantage of the elderly people they were supposed to protect. Such cases of abuse and neglect have prompted questions about the oversight of these programs.

Indeed, Chairman Craig and the Senate Special Committee on Aging asked GAO to study guardianships for the elderly. The results of our work appear in the report being released today.¹ The report covers 3 areas: first, what state courts do to ensure that guardians fulfill their responsibilities; second, what exemplary guardianship programs look like; and third, how state courts and federal agencies work together to protect incapacitated elderly people. To do this work, we reviewed guardianship statutes nationwide and conducted surveys of courts in the 3 states with the largest elderly populations: California, New York and Florida. We also visited courts in 8 states and we interviewed federal officials responsible for representative payee programs.

First, state courts and guardians. All 50 states and the District of Columbia have laws requiring courts to oversee guardianships. At a minimum, most states' laws require guardians to submit a periodic report to the court, usually at least once annually, regarding the well being of the incapacitated person. Many states' statutes also authorize measures that courts can use to enforce guardianship responsibilities. However, court procedures for implementing guardianship laws appear to vary considerably. For example, most California and Florida courts responding to our survey require guardians to submit time and expense records to support petitions for compensation, but both states also have courts that do not require these reports.

We also found that states are generally reluctant to recognize guardianships originating in other states. Few have adopted procedures for accepting transfer of guardianship from another state or recognizing some or all of the powers of a guardian appointed in another state. This complicates life for an elderly person needing to move from one state to another or when their guardian needs to transact business on their behalf in another state.

In addition, data on guardianship are scarce. Most courts we surveyed did not track the number of active guardianships, let alone maintain data on abuse by guardians. Although this basic information is needed for effective oversight, no more than one-third of the

¹ U.S. General Accounting Office, *Guardianships: Collaboration Needed to Protect Incapacitated Elderly People*, GAO-04-655 (Washington, D.C.: July 2004).

responding courts tracked the number of active guardianships and only a few could provide the number of these for elderly individuals.

Let me now turn briefly to what we call the "exemplary" programs. We sought particular courts that those in the guardianship community considered especially effective. Each of the four courts so identified distinguished themselves by going well beyond minimum state requirements for guardianship training and oversight. For example, the court we visited in Florida provides comprehensive reference materials for guardians to supplement training. With regard to active oversight, the court in New Hampshire recruits volunteers, primarily retired senior citizens, to visit incapacitated people, their guardians, and care providers at least annually, and submit a report of their findings to court officials. Exemplary courts in Florida and California also have permanent staff to investigate allegations of fraud, abuse, or exploitation. The policies and practices associated with these courts may serve as models for those seeking to assure that guardianship programs serve the elderly well.

Finally, I'd like to turn to the role of the federal government in guardianship. Federal agencies administering benefit programs appoint representative payees to manage the benefits of incapacitated individuals. The federal government does not regulate or provide any direct support for guardianships, but state courts may decide that the appointment of a guardian is not necessary if a rep payee has already been assigned. In our interviews of federal and court officials, we found that although courts and federal agencies are responsible for protecting many of the same incapacitated elderly people, they generally work together only on a case-by-case basis. Courts and federal agencies don't notify other courts or agencies when they identify someone who is incapacitated, nor do they notify them if they discover that a guardian or a rep payee is abusing the person. This lack of coordination may leave incapacitated people without the protection of responsible guardians and rep payees or, worse, with an identified abuser in charge of their benefit payments.

In conclusion, the number of elderly Americans is expected to grow dramatically in the future. The need for guardianship arrangements seems likely to rise in response, and ensuring that such arrangements are safe and effective will become increasingly important. Emulating exemplary programs such as the four we examined would surely help, but we believe more can also be done to better coordinate across states, federal agencies, and courts. That is why we recommend establishing an interagency study group including representatives from state courts and all federal programs with rep payees to consider how better to share information among these entities. We also concluded that guardianship arrangements would benefit from the collection and analysis of consistent national data on numbers and types of arrangements and incidence of problems. Thus we have recommended that the Department of Health and Human Services work with national guardianship organizations to develop cost-effective approaches to compiling such information. With these measures, guardianship programs could better serve incapacitated individuals, and will be better prepared for the growth in demand expected in the future.